

December 1, 2005

BY HAND OR ELECTRONICALLY, AS NOTED

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: WT Docket 04-344; Amendment of the Commission's Rules Regarding Maritime Automatic Identification Systems ("AIS Proceeding"); NOTICE OF EX PARTE PRESENTATION; Filed Electronically

DA 06-1665; MariTEL, Inc. Request to Extend Construction Deadline for Certain VHF Public Coast Station Geographic Area Licenses; NOTICE OF EX PARTE PRESENTATION; Filed by Hand

Dear Ms. Dortch:

Pursuant to the provisions of Section 1.1206(b) of the rules and regulations of the Federal Communications Commission ("FCC"), this letter provides notice of a meeting between Dan Smith of MariTEL, Inc. ("MariTEL"), its undersigned counsel and Cathy Massey, Nicole McGinnis, Michael Wilhelm and Scot Stone, all of the Wireless Telecommunications Bureau.

At the meeting, Mr. Smith and I discussed MariTEL's request for extension to construct certain VHF public coast station geographic area licenses and the impact of the so-called AIS Proceeding on MariTel's planned operations. A copy of the presentation made to FCC officials at the meeting is attached.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Ms. Marlene Dortch

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Should there be any questions regarding this matter, please contact the undersigned directly.

Cordially,

A handwritten signature in cursive script, appearing to read "Russell H. Fox".

Russell H. Fox

Attachment

cc: (each electronically, w/attachment)

Cathy Massey

Scot Stone

Michael Wilhelm

Nicole McGinnis



MariTEL, Inc.

Meeting with FCC Staff

November 30, 2004

Request for Extension of Time

Background

- After investing nearly \$50M on a state-of-the industry system, MariTEL stopped providing commercial services.
- Because of the changing nature of maritime communications, MariTEL re-focused its efforts on developing advanced maritime services.
- In order to permit the complete the development of these services, MariTEL sought extension of its then applicable construction deadline of May, 2004, to May, 2006.

FCC Grants Extension Request

- On December 4, 2003, the FCC granted MariTEL's extension request, giving it until May 19, 2006 to construct its system.
 - The construction deadline for MariTEL's inland VPC licenses remained October 19, 2006.
- On January 4, 2004, nearly two years ago, the Coast Guard submitted an Application for Review of the FCC's decision.

Actions Post-Extension Request

- MariTEL vigorously defended against the Coast Guard's unfounded Application for Review.
 - The FCC's decision remains in effect -- meaning that unless the FCC reverses itself, the current construction deadlines are May, 2006 for maritime stations and October, 2006 for inland stations.
- The FCC, ten months after grant of the extension request, initiated the AIS proceeding.

Impact of the AIS Proceeding

- Would strip MariTEL of its rights to use channel 87B.
- Would permit traffic on the “wrong side of the road.”
- Would sanction the introduction of a technology -- AIS -- that has been demonstrated to cause interference well beyond the channel -- 87B -- on which it will be used.
- Would establish whether the FCC believes it could routinely modify MariTEL's licenses.
- Would signal that the FCC is willing to depart from the frequency use and other rules established in the Third Report and Order, under which MariTEL's operations are structured.

The AIS Proceeding Creates Significant Uncertainty

- It is unclear which channel, if any, will be dedicated for AIS.
- It is unclear how the FCC will address the interference caused by traffic on the “wrong side” of the frequency pair.
- It is unclear how the FCC will address the demonstrated interference to MariTEL’s operations caused by the use of AIS technology.

Result of Regulatory Uncertainty

- Because of these uncertainties, and the outstanding Application for Review, MariTEL's ability to engage in basic frequency and financial planning has been hampered.
- Therefore, MariTEL has been unable to introduce full-scale commercial services.
- As a result, on May 25, 2005, MariTEL submitted a request for further extension of its construction deadlines.

MariTEL's Waiver Request

- MariTEL requests an extension of time to construct to the later of:
 - Two years from the time that the rules in the AIS proceeding are final; or
 - MariTEL's current ten year buildout deadline of May 19, 2009.
- Deadline for inland licenses would be the same for maritime areas.

Waiver Request Justification

- **MariTEL has invested substantially in its network.**
 - In addition to the over \$50M in lost investment costs, it has spent hundreds of thousand to defend its spectrum against actions taken and threatened by the FCC and Coast Guard.
 - MariTEL continues to test equipment and services.
 - MariTEL demonstrated NuLink product to FCC 18 months ago and is ready to deploy, but for FCC delay.
 - Therefore, MariTEL is not like others, for whom the FCC has rejected relief because of lack of demonstrated commitment to the service.

Waiver Request Justification (cont'd)

- The AIS proceeding has made it impossible for MariTEL to meaningfully introduce services.
 - This external factor is completely outside of MariTEL's control.
 - Yet, it will determine how much of MariTEL's spectrum will be available to the Company and how the spectrum will be encumbered by destructive technology.
 - Extension of time due to uncertainty of this nature is consistent with Commission precedent.
- MariTEL may be required to completely replace a network it installs today, in light of FCC rule changes in AIS proceeding.

FCC Action is Needed NOW

- **MariTEL's ability to attract investment is hampered by FCC inaction.**
 - A company with 2+ years to develop technology and construct is more attractive than a company that may need to construct in the face of regulatory and technological uncertainty.

FCC Action is Needed NOW

- **Fundamental fairness requires immediate action.**
 - The FCC cannot reasonably expect MariTEL to construct in 9 VPCs by May 19, 2006 (and 7 inland VPCs by October, 2006) unless it orders MariTEL to do so immediately.